



House of Representatives

General Assembly

File No. 166

February Session, 2022

House Bill No. 5319

House of Representatives, March 29, 2022

The Committee on Banking reported through REP. DOUCETTE of the 13th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING DISCLOSURE OF PREPAYMENT PENALTIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-260 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2022*):

3 (a) A Connecticut bank may make secured and unsecured loans,
4 except as otherwise expressly limited by sections 36a-261 to 36a-266,
5 inclusive.

6 (b) At least once a year, the governing board of each Connecticut bank
7 shall adopt a loan policy governing loans made pursuant to sections
8 36a-260 to 36a-266, inclusive. The governing board of each Connecticut
9 bank shall develop and implement internal controls that are reasonably
10 designed to ensure compliance with such loan policy. The loan policy
11 shall require applications for all loans, and address the categories and
12 types of secured and unsecured loans offered by the bank, the manner
13 in which loans will be made and approved, underwriting guidelines

14 and collateral requirements, and, in accordance with safety and
15 soundness, acceptable standards for title review, title insurance and
16 appraiser qualifications, policies for the approval and selection of
17 appraisers, appraisal and evaluation standards, and the bank's
18 administration of the appraisal and evaluation process. The loan policy
19 and any loan made pursuant to the policy shall be subject to the
20 examination of the commissioner concerning safe and sound banking
21 practices.

22 (c) The governing board of each Connecticut bank shall adopt a loan
23 review policy that is designed to ensure that all material loans made by
24 the Connecticut bank pursuant to sections 36a-260 to 36a-266, inclusive,
25 are reviewed. The policy shall establish appropriate standards,
26 consistent with prudent risk management principles, for the review to
27 address the bank's compliance with the loan policy adopted pursuant to
28 subsection (b) of this section and the need for plans to implement special
29 collection, workout, divestiture or other means of bringing such loans
30 into compliance with the loan policy. The loan review policy shall be
31 appropriate to the size of the Connecticut bank, its financial condition
32 and the nature and scope of its activities. The governing board shall also
33 adopt, as part of the loan review policy, standards for determining
34 which loans are material for purposes of this subsection. When adopting
35 the materiality standards, the governing board shall consider, where
36 appropriate, the inclusion of standards based on the size of the loan in
37 relation to the Connecticut bank's total capital and reserves for loan and
38 lease losses, and such other factors that may present material risks to the
39 institution. The loan review policy and any loan reviewed pursuant to
40 such policy shall be subject to the examination of the commissioner
41 concerning safe and sound banking practices. At least semiannually, the
42 governing board of each Connecticut bank or a committee designated
43 by such board shall conduct an assessment of the loan reviews. The
44 minutes of the meeting of such governing board or committee shall
45 recite the results of the assessment of the loan reviews.

46 (d) Each person who makes a loan to a borrower that includes a
47 prepayment penalty shall, prior to completing the execution of the loan

48 agreement, provide a clear and conspicuous disclosure to the borrower
49 of the amount that such prepayment penalty will be if the loan is repaid
50 during each billing cycle throughout the life of the loan. Such disclosure
51 shall be signed by the borrower.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2022	36a-260
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BA *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill, which amends the banking statutes to require disclosure of the prepayment penalty amount for loans that include a prepayment penalty, does not result in any fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 5319****AN ACT CONCERNING DISCLOSURE OF PREPAYMENT PENALTIES.****SUMMARY**

This bill requires any person making a loan that includes a prepayment penalty to provide the borrower with a clear and conspicuous disclosure of the penalty amount. The disclosure must be made before the loan agreement is executed and the borrower must sign it. The disclosure must show the prepayment penalty that would be imposed if the loan is repaid in full during any billing cycle in the life of the loan.

Although the bill applies broadly to any “person” making a loan (which generally includes individuals, companies, and certain other legal entities), federal law generally preempts the application of state banking laws to federally chartered financial institutions. As a result, the bill may not be enforceable with respect to individuals making loans on behalf of federally chartered banks and credit unions (see BACKGROUND).

EFFECTIVE DATE: October 1, 2022

BACKGROUND***National Bank Act Preemption***

Federal law defines a “state consumer financial law” as a state law that (1) does not discriminate against national banks and (2) directly regulates the manner, content, or terms and conditions of certain consumer financial transactions (12 U.S.C. § 25b(a)(2)). These state laws are preempted if, among other things, they significantly interfere with a national bank’s exercise of its powers (12 U.S.C. § 25b(b), *Barnett Bank of Marion County, N.A. v. Nelson, Florida Insurance Commissioner, et. al.* 517

U.S. 25, 33 (1996)).

COMMITTEE ACTION

Banking Committee

Joint Favorable

Yea 17 Nay 0 (03/15/2022)